

Newly Released Delaware Corporate Law Amendments Would Permit Blockchain Shares

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The Corporate Council of the Corporation Law Section of the Delaware State Bar Association has released a long-awaited set of proposed amendments to the Delaware General Corporation Law (DGCL). The amendments are the latest step in the Delaware Blockchain Initiative, the state's program to welcome blockchain businesses and clarify its existing policies to give regulatory certainty to innovative companies. The new amendments, if approved by the Delaware General Assembly and enacted, would permit Delaware corporations to authorize and issue so-called "Distributed Ledger Shares" that could be authorized, issued, transferred, redeemed – living their entire life cycle – on a distributed ledger.

The amendments effect a fundamental change in the way that corporations may keep their books and records, in particular, the record of shareholders known as a "stock ledger". Sections 219 and 224 of the DGCL would be amended to permit the corporation to rely on the contents of a distributed ledger itself as the stock ledger. As amended, Section 219(c) would define "stock ledger" to include "one or more records *administered by or on behalf of* the corporation." As amended, Section 224 will provide that any records "*administered by or on behalf of* the corporation" may be "one or more distributed electronic networks or databases."

Not just any ledger will suffice however. The amendments would require that the ledger:

1. be convertible into clearly legible paper form within a reasonable time;
2. be able to be used to prepare the list of stockholders specified in Section 219 as well as in Section 220, dealing with stockholder demands to inspect the corporations books and records;
3. records the information specified in Section 156 for consideration for partly paid shares, Section 159 for the transfer of shares for collateral security, Section 217(a) for pledged shares, and Section 218 for voting trusts; and
4. records transfers of stock as governed by Article 8 of the Delaware Uniform Commercial Code.

Finally, amendments to Sections 151, 202 and 364 of the DGCL would explicitly permit "electronic transmission" of investor communication using a distributed ledger. [Read the full proposal.](#)

Rather than proposing sweeping changes to the structure of the DGCL, the Corporation Law Section's amendments clarify the application of existing law to new technology. If enacted, the amendments would pave the way for smart contract and token-based systems alike to clear and settle securities transactions entirely on a distributed ledger, without resort to the typical intermediaries or custodians.

Cooley named legal ambassadors to program

In 2016, Cooley's lawyers were named the state of Delaware's Legal Ambassadors to the Blockchain Industry, and have been among the architects of the Delaware Blockchain Initiative since its inception. For more information on how a company might use

blockchain shares, please contact the lawyers listed here.

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